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4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 JONATHAN DANIEL SMITH,

7 Plaintiff,

8 v.

9 ROBIN SOUVENIR,

10 Defendants.

Case No. C19-5838 RBL-TLF

ORDER DIRECTING PLAINTIFF  
TO AMEND COMPLAINT

11 Plaintiff Jonathan Daniel Smith, proceeding pro se and *in forma pauperis* in this  
12 42 U.S.C. § 1983 civil rights action, names Darren Carlson and “Current Jail  
13 Administrator (at the time of incident)” as defendants in his complaint. Dkt. 6. The Court  
14 ordered plaintiff to show cause as to why these defendants should not be dismissed  
15 from the complaint. Dkt. 10. Plaintiff has responded to this order. Dkt. 13. The Court  
16 finds the response satisfactory and orders that plaintiff will be allowed to submit an  
17 amended complaint incorporating the alleged facts from plaintiff’s response.

18 *Darren Carlson*

19 To state a claim under 42 U.S.C. § 1983, the defendant must be a person *acting*  
20 *under color of state law*, and his conduct must have deprived the plaintiff of rights,  
21 privileges or immunities secured by the constitution or laws of the United States.  
22 *Gibson v. United States*, 781 F.2d 1334, 1338 (9th Cir. 1986). A private individual may  
23 only be liable under § 1983 *only* if he conspired or entered into joint action with a state  
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1 actor. *Radcliffe v. Rainbow Constr. Co.*, 254 F.3d 772, 783 (9th Cir.), *cert. denied*, 534  
2 U.S. 1020 (2001). To prove conspiracy, however, a plaintiff must allege facts showing  
3 “an agreement or ‘meeting of the minds’ to violate constitutional rights.” *United*  
4 *Steelworkers of Am. v. Phelps Dodge Corp.*, 865 F.2d 1539, 1540-41 (9th Cir.1989)  
5 (quotations omitted). “To be liable, each participant in the conspiracy need not know the  
6 exact details of the plan, but each participant must at least share the common objective  
7 of the conspiracy.” *Id.* at 1541.

8 Plaintiff’s response included additional facts alleging Darren Carlson’s assault on  
9 plaintiff was in furtherance of the state’s aim to secure information pertaining to  
10 plaintiff’s criminal defense. Dkt. 13, at 2-3. Plaintiff claims that another defendant named  
11 in this case, either Sergeant Patterson or Anthony Kimball, had known of Mr. Carlson’s  
12 assault on another inmate in plaintiff’s unit. *Id.* at 2. He asserts that they failed to protect  
13 plaintiff from violent assault by allowing Mr. Carlson to remain in the unit. *Id.*

14 Plaintiff also alleges that on the first day that Mr. Carlson was assigned to  
15 plaintiff’s unit, Mr. Carlson engaged plaintiff in intrusive questioning about plaintiff’s case  
16 and defense strategy, demonstrating knowledge about one of plaintiff’s intended  
17 witnesses that plaintiff had kept private. *Id.* at 3. Plaintiff asserts that this knowledge  
18 could only have been made known to Mr. Carlson through collaboration with the state.  
19 *Id.* Plaintiff alleges that the assault itself followed another round of questioning, where  
20 plaintiff’s refusal to directly answer Mr. Carlson’s questions angered Mr. Carlson to the  
21 point of violence. *Id.* Plaintiff alleges that he requested “many times” to be reassigned to  
22 a different unit away from Mr. Carlson, suggesting that the refusal to separate the  
23 inmates was a tacit approval from the state of both the questioning and the assault. *Id.*

1           The Court finds these alleged facts, given a liberal reading because plaintiff is a  
2 pro se litigant, to be sufficient for screening purposes, against Darren Carlson for joint  
3 action or conspiracy with the state in this § 1983 action. The Court therefore orders that  
4 plaintiff is allowed to file an amended complaint to include these facts, upon which the  
5 Court may serve the complaint on Mr. Carlson.

6           *Current Jail Administrator*

7           Plaintiff bears the burden of providing accurate and sufficient information to effect  
8 service of the summons and complaint. See *Walker v. Sumner*, 14 F.3d 1415, 1422 (9th  
9 Cir. 1994), *overruled on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995); see  
10 *also* Fed. R. Civ. P. 4. Plaintiff named “Current Administrator of Pacific County Jail” as a  
11 defendant in this action. Dkt. 6, at 2. The Court advised plaintiff to provide defendant’s  
12 name, which Plaintiff’s response has provided as Pat Matlock. Dkt. 13, at 4. The Court  
13 finds this is sufficient information to serve the defendant and directs plaintiff to include  
14 the name in plaintiff’s amended complaint.

1           Accordingly, it is **ORDERED** that Plaintiff is allowed to file an amended complaint  
2 **on or before February 4, 2020**, incorporating the facts and allegations submitted in  
3 plaintiff's response to the Order to Show Cause.

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5           Dated this 22nd day of January, 2020.

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9           Theresa L. Fricke  
10           United States Magistrate Judge  
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